



Complaint sets out facts of an alleged encounter between Plaintiff and Charlotte Mecklenburg Police Department (“CMPD”) “Officer R. Reese” on August 4, 2014. (Id.). Although no claim is clearly articulated in the Third Amended Complaint, Plaintiff appears to assert a claim against “Officer R. Reese” for violations of Plaintiff’s rights under 42 U.S.C. § 1983. The Third Amended Complaint refers to “several officer[s] of CMPD” that were allegedly present at the scene, but Plaintiff fails to assert any claim against these unknown officers.

## **II. STANDARD OF REVIEW**

Because Plaintiff is proceeding in forma pauperis, the Court must review the Complaint to determine whether it is subject to dismissal on the grounds that it is “frivolous or malicious [or] fails to state a claim on which relief may be granted.” 28 U.S.C. § 1915(e)(2). In its frivolity review, this Court must determine whether the Complaint raises an indisputably meritless legal theory or is founded upon clearly baseless factual contentions, such as fantastic or delusional scenarios. Neitzke v. Williams, 490 U.S. 319, 327–28 (1989).

## **III. DISCUSSION**

Although Plaintiff’s Third Amended Complaint fails to particularize his specific claims against any defendant, the Court finds that the Complaint could be liberally interpreted to allege a claim against “Officer R. Reese.” Therefore, the Third Amended Complaint will be allowed to proceed as to this defendant only. The Court previously granted Plaintiff’s Motion to Proceed in Forma Pauperis; therefore, the Court will direct that the United States Marshal serve process upon “Officer R. Reese.”

An amended complaint supersedes any previous complaint, rendering the original pleading of no effect. Young v. City of Mount Ranier, 238 F.3d 567, 573 (4th Cir. 2001). Thus, if an amended complaint omits claims raised or defendants included in the original complaint,

the plaintiff waives those omitted claims. Id. The Court finds that Plaintiff's Third Amended Complaint does not make any allegation against or specify any claim against any other defendant that was listed or named in Plaintiff's previous complaints. (Doc. Nos. 1, 3, 4). Accordingly, all other previously identified defendants must be dismissed from this action.

Finally, Plaintiff's Third Amended Complaint also seeks to renew his previous Motion to Appoint Counsel, (Doc. No. 6), which was denied by the Magistrate Judge on March 9, 2016, (Doc. No. 7). The Court has considered Plaintiff's request and denies the request for appointed counsel for the reasons stated in the Magistrate Judge's March 9, 2016 Order.

#### **IV. CONCLUSION**

**IT IS, THEREFORE, ORDERED** that:

1. Plaintiff's Third Amended Complaint, (Doc. No. 8), survives initial review under 28 U.S.C. § 1915(e) as to Defendant "Officer R. Reese."
2. The Clerk of Court is directed to notify the United States Marshal who, pursuant to Fed. R. Civ. P. 4(c)(3), shall serve process upon Defendant "Officer R. Reese," in accordance with Fed. R. Civ. P. 4(i)(1) and (2), using the summons form filed by Plaintiff and attached to the original complaint in this action. (Doc. No. 1-2 at 7-8). All costs of service shall be advanced by the United States. Any recovery in this action will be subject to payment of fees and costs, including service of process fees and the \$400.00 filing fee. All costs of service shall be advanced by the United States. Any recovery in this action will be subject to payment of fees and costs, including service of process fees and the \$400.00 filing fee.
3. All other defendants shall be **DISMISSED** from the case without prejudice. Specifically, Charlotte Mecklenburg Police Department, M. Sullivan, S. Selogy, FNU Meyers, FNU

Agape, K.S. Kodad, FNU Issac, FNU Airtone, S. Mobley, T. Moore, T. Wilson, J. Fletcher, J. Parker, P. Moore, L.B. Diggs, B. Butler, Nurse FNU Green, M.W. Womble, M.T. Retort, B. Scarey, T. Castano, FNU Stouts, R. Monroe, J.H. Frison, R. Burnett, Bradon Jolly, W.L. Canter, Cooper Jerrell, FNU Eason, FNU Street, FNU Gant, FNU Hood, and R. Chapman are **DISMISSED** from this action.

4. Plaintiff's renewal of his previous Motion to Appoint Counsel is **DENIED**.

Signed: April 11, 2016

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.  
United States District Judge

